IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.SASIDHARAN NAMBIAR

MONDAY, THE 18TH DECEMBER 2006 / 27TH AGRAHAYANA 1928

CRP.No. 671 of 2006(H)

(AGAINST THE ORDER DATED 4.7.06 PASSED BY MUNSIFF'S COURT, PALAKKAD IN E.P.86/2006 IN O.S.448/04)

REVN. PETITIONER: IST RESPONDENT/IST JUDGEMENT DEBTOR

P.VISWANATHAN, S/O.A.M.MENON,
AGED 50 YEARS, LIC OF INDIA,
BRANCH NO.II, RAILWAY STATION ROAD,
PALAKKAD.

BY ADV. SRI.RAJESH SIVARAMANKUTTY

RESPONDENTS: PETITIONER/DECREE HOLDER/2ND JUDGEMENT DEBTOR

1. SYNDICATE BANK,
REP. BY ITS BRANCH MANAGER,
MELAMURY, PALAKKAD.

2. K.S.GANESAN, LIC OF INDIA,
BRANCH NO.II, RAILWAY STATION ROAD,
PALAKKAD.

BY ADV. SRI.R.S.KALKURA

THIS CIVIL REVISION PETITION HAVING BEEN FINALLY HEARD ON 18/12/2006, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

C.R.P.671/06

ORDER ON I.A.2553/06 IN C.R.P.671/06
DISMISSED

18.12.06 SD-/ M. SASIDHARAN NAMBIAR, JUDGE.

M.SASIDHARAN NAMBIAR,J.

C.R.P.NO.671 OF 2006

DATED THIS THE 18th DAY OF DECEMBER, 2006

JUDGMENT

Petitioner is the judgment debtor. First respondent is the decree holder towards the realisation of the decree debt in O.S.448/04, first respondent filed E.P.86/06 for attachment of salary of petitioner. As per order dated 4.7.06, learned Munsiff passed an order of attachment of the salary as prayed for stating that no counter was filed. This revision petition is filed contending that infact an objection was filed but learned Munsiff did not notice the counter and passed the impugned order. It was contended that petitioner is getting only Rs.4,937/-as net salary and he is prepared to deposit Rs.1,500/- per month and therefore the salary may not be attached.

2. Learned Counsel appearing for petitioner and first respondent were heard.

3. A copy of the salary certificate produced along with the objection filed by petitioner before the executing Court were made available by learned Counsel appearing for petitioner. Salary certificate shows that petitioner is drawing a total salary of more than Rs.70,000/- as on June 2006. Out of the salary, though there are

several deductions, the deductions cannot be exempted while considering the attachable portion of the salary. Contribution towards Provident fund is only Rs.1,417/-. The balance amount cannot be exempted as provided under Section 60 of Code of Civil Procedure. If that be the case, the order of attachment cannot be interfered though it is not a speaking order. Petitioner is having salary more than the attachable portion.

Petition is dismissed. If petitioner is prepared to pay the portion of the salary directed to be attached every month and files an affidavit undertaking to pay the amount on the tenth day of every month, learned Munsiff may keep the order of attachment in abeyance and permit the petitioner to pay the same amount in instalments. If petitioner fails to deposit or pay the amount, learned Munsiff may effect attachment.

M.SASIDHARAN NAMBIAR,JUDGE

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